لا إله إلا الله محمد رسول الله

إن الدين عند الله الإسلام

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THE REVIEW OF RELIGIONS

October 1967

EDITORS

S. D. AHMAD M. G. AHMAD

THE AHMADIYYA MOVEMENT IN ISLAM

The Promised Messiah, Hazrat Mirza Ghulam Ahmad was born in 1835 in Qadian, a village in India. In the eighties of the 19th century, he was called to the office of world Reformer to combat the current of anti-religious philosophies and to explode the Christian theory of redemption based on the fiction of Christ's death on the Cross and to tell the Christians and Muslims to call off their hope for a second visit from Christ as he had been gathered to his forefathers and barred like all mortals from coming back to the world; and that he, the Promised Messiah, had come instead.

The Promised Messiah initiated the Ahmadiyya Movement (1) to revive Faith in God, challenging rival churches to a spiritual contest to seek Divine sanction for the religion He favoured, through prayer and appeal to Him for guidance and arbitration in the matter, by means of His signs (2) to re-establish the glory of the Holy Prophet Muhammad and to expound and disseminate spiritual beauties and moral excellencies of the teachings of the Holy Quran (3) to wean men from war-like tendencies and to educate world opinion in favour of renunciation of war as a means of settling disputes (4) to infuse hope, faith and courage in the drooping hearts of Muslims and all the depressed races and nations of the world (5) to warn the exploiters, slave-drivers, and pedlars in sin against the evil consequences of their evil ways (6) to collect under one banner all the true followers of Islam and lovers of peace and (7) to inculcate among them the spirit of tolerance, goodwill and self-less fellow-service and a feeling of true brotherhood.

The Promised Messiah passed away in 1908 and was succeeded by his foremost votary and closest companion Hazrat Haji Hakim Maulvi Nooruddin as Khalifatul Masih I. After his death in 1914, the Promised Son of the Promised Messiah, Hazrat Haji Mirza Bashiruddin Mahmud Ahmad was chosen as the Khalifatul Masih II. During his 52 years of Imamat the Khalifatul Masih II organized a world-girdling chain of mosques and missions. On his death on November 8, 1965, the electoral college named with one accord Hafiz Mirza Nasir Ahmad, the late Khalifatul Masih's son and the Promised Messiah's grandson, the Khalifatul Masih III.

For further information about the Movement, its activities and aims and objectives or literature, enquiries may be addressed to the nearest Ahmadiyya Mission or direct to

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It is open to all for discussing problems connected with the religious and spiritual growth of man, but it does not give any assurance to publish all articles, nor does it accept any responsibility for views expressed by contributors.

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A Verse from the Holy Quran

والذين يدعون من دون الله لا يخلقون شيئا و هم يخلقون
اموات غير احياء و ما يشعرون ايان يبعثون

"And those on whom they call beside Allah create not anything, but they are themselves created. They are dead, not living; and they know not when they will be raised." (16 : 21, 22)

The two verses quoted above contain refutation of *Shirk* and advocate the Oneness of God.

Allah describes how the unbelievers raise helpless human beings to the status of God and accept them as the fountain of all knowledge, power and virtue. This belief in false gods cannot be justified on any account. It raises certain issues that are contrary to human reason.

It cannot be justified because they are incapable of creating and producing what God should be able to create and produce. They lack the attribute of creating something out of nothing, life out of non-life. As a matter of fact, their own existence depends on someone else. They are the created and not the creator. They do not have any independent existence. They lack the attribute of self-existence; if they did not, they would be perfect. As it is they are imperfect, dependent and created. Also they are dead. They do not have the signs of life. As such they are inert and valueless and cannot confer any blessing or advantage on those who believe in them. Dead, as they are, they lack all powers and capacities which go to make a Perfect Being. God must be the embodiment of all values, all powers, all virtues. He must comprehend all and must be perfect and complete.

These false deities do not even know what is going to happen to them in future. They do not know when they would be raised again and resurrected. They have no control over their destinies. In fact, their destinies are controlled by someone else.

It could be asked how do we know that they are ignorant of their destiny and end. The question is easily answered. Jesus Christ is perhaps the one person who has been set up as an idol and worshipped as a false God more than anybody else. He himself confesses as much when he says:

> "But of that day and that hour knoweth no man, no, not the angels which are in heaven, neither the son, but the Father. Take ye heed, watch and pray: For ye know not when the time is".
>
> (St. Mark 13:32, 33)

Hence, how could such a person be a God who owes his origin, existence and end to someone else; possesses no inherent power; can control neither his own destiny nor the destiny of others. How could man worship him and prostrate himself before him and associate him as a partner with God.

Loans, Loanees & Loaners

Malik Saif-ur-Rahman

In connection with principles laid down by Islam, to promote the growth of prosperity of the body politic, and foster co-operation, availability of loans, and the presence of a proper spirit in which such transactions are to be conducted, are considered to be matters of great importance. Facilities for raising loans, to meet valid needs, are considered to be a right of the needy, on the rich, with money they can spare. The foremost principle is fellow-feeling, and a genuine sympathy, a desire to do good deed, on the part of the rich. Islam does not tolerate that loans should be extended by the rich, in pursuit of selfish and greedy, worldly aims, plans, and schemes.

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The moral basis of the availability of loans is the principle that no human being, however well placed and rich, can subsist without support, of many kinds, he receives from other people, with whom he is bound up in corporate life, irrespective of whether this support is extended specifically, and knowingly, or it accrues as a fruit of the established social order. Even the richest man, essentially, has to depend on others for many kinds of help, usually, which he does not even acknowledge, or pay for. In many cases, in fact, he may not even be conscious of having received these benefits.

Moreover, this is quite apart from the fact that those who amass fortunes, they do so with the help of many factors which fall in the category of public utilities, and the bounties of Nature, such as air, water, sunshine, and so on—to which they have no exclusive title. Law and order, various ties of mutual responsibilities, respect for each other, mutual recognition of a number of rights and privileges, entailing service, and some sacrifice of personal plans and emotions—these are the bedrock foundations on which the structure of human society has been built.

These are the general conditions in which the growth of wealth in the hands of individual members of society lies deeply and closely embedded. Further, when a man hires another to to do some thing for him, in many cases he does not necessarily make a full payment for the benefit he receives. He does his best to keep the wage low, unduly meagre; but the labourer agrees to the starvation wage, since he is helpless; if he does not accept it, he has to starve. A great deal of labour is also exploited by elusive promises of better things in the near future—promises which do not come to be honoured.

Islam keeps all these circumstances fully in view; the Islamic view is that failure on the part of the social order to adhere to these vital principles, creates discontent, and a danger to life and property, breeding bloody revolutions. In view of these facts Islam lays down that in this respect the rich are trustees for the good of their poorer brethren; in case of need, the trustee is expected to extend to the poor portions of the trust some benefit in recognisable forms. On the part of the rich, to respond to an appeal for a loan, by a useful member of society, is one form in which the rich can prove themselves worthy of being trustees in some respects, to the general advantage of society. To honour the responsibility of being a trustee, with pleasantness and a good grace is undoubtedly a highly meritorious act, which is accompanied by various kinds of advantages and benefits for the trustees, as well as society in general.

On the other hand, selfish exploitation of the pressing need of individuals, for loans, is looked upon by Islam as a curse, in time, which ruins human society. Indeed, this tendency has been described in the Holy Quran as a desire to wage war with Allah:

> "Allah will abolish Interest and will cause charity to increase. And Allah loves not anyone who is a confirmed disbeliever and an arch sinner. Surely those who believe and do good deeds, and observe prayer, and pay the *Zakat*, shall have their reward from their Lord, and no

fear shall come on them, nor shall they grieve. O ye who believe, fear Allah and relinquish what remains of Interest, if you are believers. And if you do it not, then beware of war from Allah and His Messenger; and if you repent, then you shall have your original sums; thus you will not wrong, nor shall you be wronged." (2 : 277-280)

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In these verses light has been thrown upon the important cause of the growth of unrest and disorder in the corporate life of human society, with instructions that the fault should be corrected. The real nature of Interest is the desire to gain profit from loans advanced, which plays a great part in disturbing the economic equilibrium of social units, tribes and nations. Islam, therefore, forbids Interest and ordains *sadaqat*. Acts of charity carry a considerable measure of sacrifice, with the idea and hope in the background that they would serve as a safegaurd against possible dangers, inherent in social situations, where economic balance has been disturbed. This is the reason why in this verse and in some *Hadith*, loans and the fulfilment of similar obligations of society, has been spoken of as charity. It has been stated in the *Hadith* that ordinary kinds of charity carry a tenfold reward; but a loan advanced merits a reward 18 times the value of the intrinsic act. *(Ibni Majah Babul Karz)*

On the other hand *Riba* (Interest) has been spoken of as indulgence in selfishness and greed. The basis of this comparison is obvious. Those who control national wealth, if they duly discharge the duty they owe to the poorer sections of society, they will be safe against a general resentment taking birth in the heart of the masses, and peace would not be disturbed by untoward incidents, capable of developing into bloody revolutions, in the course of time. In these situations, where the Government is Islamic, the Islamic Law would be put into operation, with a tightening of the grip on those who usurp the rights of others. But where the Government is not Islamic, the wrath of God

will manifest itself. The old social distinctions and honours will be eliminated; new rebellious forces will take the field, arrogant and extremely merciless. Those quick in working ruin will dominate those who might desire to go slow, in pulling down the age-old structures. But these disorderly tendencies, and violent reactions, seeking revenge, will, in themselves, be carrying the seeds of worse disorders, and far more cruel rataliations. And all this will take place because man ignores the light of divine guidance, preferring to work in darkness of greed and passion.

In the sacred text quoted above, those turning away from a system based on charity and human fellow-feeling have been spoken of as '*kaffarin athim*', i.e., ungrateful, inclined to evil. These are qualities which sprout out naturally in a system based on economic institutions where Interest forms the backbone--Interest which, in fact is only camoufladged name for a greedy exploitation of the economic distress of the masses. The Holy Prophet has explained the meaning of '*ihsan*' as things done under a conviction that whatever a man does is directly under the eyes of God, the Master, Who feeds him and sustains in life; it is done by him under a direct awareness of God, quite as if Allah were present in front of his eyes; or, at least, that God in any case sees everything he is doing; that the mainspring of all his actions is the desire to win His approval. Now, where a man extends a loan, and ties it down to a selfish exploitation of the poor and needy, he shows himself manifestly ungrateful. He pretends he is helping a man to overcome his economic distress, while in fact he is doing nothing of the kind, since he has only his own selfish and greedy interest in mind. He pretends he is a servant, a creature of God; in fact he is being actuated by personal aggrandisement. He pretends he is striving to win divine approval, while in fact he is being actuated by a desire to increase his own wealth and well being, by taking a share in the proceeds of another man's labour, greater than he is justly entitled to.

Similarly, in the expression 'you will not wrong, nor shall you be wronged', a hint is given in regard to the principle which forms the basis of comparisons in the economic life of the people. Where an individual desires that no one should do any wrong to him, he should take mighty good care not himself to do any harm to others, connected with him in the economic endeavour of the society of which he is a member. If he feels aggrieved when any wrong is done to him, he should not injure the well-being of others. Otherwise, we have here been warned, the law of nature will not forgive him; and to trample out this spirit of an aggressive greed, unexpected storms will gather on the horizon, to bring about his destruction.

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Thus, there is no idea in the Islamic *Shariah* to sanction selfish exploitation of loans extended. An economic order based on selfishness and greed, of this kind, has been strictly banned by Islam. Even a minute shade of selfishness, and personal greed, and aggrandisement, has not been tolerated. The Holy Prophet has said where a man extends a loan to someone, who later sends him a gift, which the other party had never done before, prior to the extension of the loan, the creditor should not accept this gift, since there is a possibility that the present might have come forth as a reaction of the loan, since prior to it there had not existed a friendly relationship between the loanee and the loaner, which prompts the offer of a gift. (*Ibni Majah*, on the basis of *Nailul Autar*, page 231, Vol. V)

In another *Hadith* it is said that any extraction of a profit from a loan partakes of the nature of '*riba*'. From an awareness of the rigidity of the Islamic teaching in regard to Interest, some people went to the extreme of caution against getting involved in a loan transaction which might carry a possible personal motive for economic, or some other kind of gain from the debtor. Of Imam Abu Hanifa, it is on record that he avoided even a temporary rest under the shadow of a wall belonging to a man who had taken a loan from him. (*Kashful Ghummah*, page 21, Vol. II).

As we have explained above, the raising of a loan by a man, in times of a genuine need, is a right which an upright and capable man has on the social set-up of which he is a member. In transactions of this kind, the desire for a possible personal gain, on the part of the creditor, has no importance —in fact it has no place in the Islamic social and economic order. Great scholars and saints, of undisputed eminence, have excercised this right. Even the Holy Prophet himself, on occasions, under pressing needs, took loans; and many of his Companions did so—loans from the better off Muslims; also in cases, from non-Muslims. No distinction was made by them, in this respect, between Muslims and non-Muslims. Debts thus incurred were duly paid with all assiduity, when the emergency had passed which had necessitated the raising of these loans. (*Bokhari' Muslim, Tirmazi, Musnad Ahmad, Ibni Majah*, on the basis of *Nailul Autar*, page 230, Vol. V, *Babul Karz* and *Babul Rehan*).

Just as Islam has emphasised the feeling of sympathy in the heart of the creditor, it has laid the same emphasis on the debtor, that he should dutifully pay the debt at the earliest opportunity, or when the payment falls due. Evasion, or unnecessary delay, exposes the debtor to reproach in the eyes of the *Shariah*. The Holy Prophet said delay in paying a debt, after the debtor had tided over his difficulties, was very unjust, and reprehensible. On this basis the *Fokaha* have held imprisonment a meet measure in dealing with a debtor who delayed repayment of a loan, even after he had visibly tided over his financial difficulties.

On the other hand, if the loan is a big one, and the loanee is really not in a position to make a prompt repayment, for circumstances beyond his control, the creditor is expected to give him an appropriate extention. To ensure, however, that this leniency should not come to be misused, the Islamic *Shariah* does not tolerate that a debtor should become complacent in regard to his responsibility for clearing the loan. The threat hangs over his head, like a sword, that the Prophet, or his Successor, would not say *Janaza* Prayer for him, if he died

without clearing his debts. It is mentioned in *Hadith* that the Holy Prophet, when requested to lead a *Janaza* Prayer, always asked if the deceased had left any debts. If the reply was in the affirmative, he declined to offer the funeral prayer, leaving it to be done by someone else. If the reply, however, was in the negative, he was glad to do this last service to a disciple. Or if he was told that he had left a debt, or debts, which had, however, been fully covered by someone else, he was satisfied and led the *Janaza* Prayer. (*Bokhari*, on the basis of *Nailul-Autar*).

Moreover, if it was established that a loan was taken to meet valid needs in life, not for luxuries, nor in actual fact wasted on luxuries, and the debtor failed to pay up his liabilities, the Holy Prophet ordered the *Baitulmal* to clear the debts, saving the loaner from an unbearable loss, because he had tried to up-hold fellow-feeling in the corporate life of the community, nation, or the country. It is recorded in the *Hadith* when he decided he would not personally hold funeral prayer in the case of a debtor, Gabriel came to him and said that an unjust person was one who took heavy loans not for any constructive and productive purpose, but for living in luxury, then failed to honour his liability, he deserved disapproval and punishment. Also the loaner, if he extended a loan without ascertaining what the loanee intended to do with it. But where a man took a loan for some productive purpose, and the venture failed; or the loan was taken to meet genuine needs, then he could not manage to pay the debt, he was a deserving case for financial help from the *Baitulmal*. On this basis the Holy Prophet declared that among members of the body politic, where a man died leaving an estate, it would go to his heirs. But where an intelligent and honest loyal member of society died insolvent, the *Baitulmal* would take that burden upon itself, and pay off the dues. (*Nailul Autar*, page 238, 239, Vol. V.)

Another form of loan is one raised for consolidating, or expanding a business concern, but later the business went down, for reasons beyond the control of the management, leaving the enterprise so crippled that a due payment of the loan went out

of the question. In a case of this kind, the Islamic economic order prescribes that the Government, and some well-off people would shoulder the burden, to make the individual stand on his legs again, turning him into an asset for the social and economic structure of the body politic, by making him again into productive member. But he would be barred from engaging himself again in the same kind of business at which he failed so disasterously in the first instance. After a proper survey of his needs in life, and leaving him a margin for these, the rest of his income, for the future, would go towards the payment of the debt. But in case some of the amount still remains unpaid, the creditor will have to bear it as a loss, for his carelessness in giving such a big loan without properly weighing the possibilities and various likelihoods. In a case of this kind, which came to the notice of the Holy Prophet, a man engaged himself in business, trading fresh fruits. But for some reason his stock was destroyed, involving a heavy loss; and the man became a pauper. The Holy Prophet made a general appeal that those better off should come to his help, so that many people gave him donations of various amounts, however, he failed to clear his debts. To the creditors, then, the Holy Prophet said: Take just what has come to you: with regard to the remaining amount, take it that it has been lost, since you cannot get anything more. (*Muslim* on the basis of *Nailul Autar*, page 241, Vol. V)

On the basis of this *Hadith*, some have laid down tnat in such cases, after payment had been made, to the utmost extent possible in the circumstances, if the man later becomes a man of substance, he will not be called upon to pay the rest of the old debt. (*Nailul Autar*, page 242, Vol. V)

Now let us take another case. While extending a loan, a man did not content himself with some personal surety, and insisted on mortgage of some property, to further cover his risk, and he derived financial benefit from the mortgaged property, on the plea that what he was receiving was his compensation for the trouble he was taking in looking after the property

in question. At the origin of the transaction, it was, only a loan, repayable as a loan. In view of the nature it assumed later, and the consequences which flowed from it, it became a business involing many other elements. On this ground, the drawing of financial benefit, from a mortgaged property, becomes legally justified—as we find in the *Hadith* that where a man has in his possession an animal, mortgaged to him, he would be responsible for its maintainance, and have the right to derive benefit from it. (*Bokhari* and *Musnad Ahmad*, on the basis of *Nailul Autar*, page 234, Vol. V). In case, however, the property is destroyed, or injured, on account of lack of proper care by the man holding the mortgage, he will be held responsible for the ultimate loss to the debtor, and loan will have to be considered as having been cleared. But the *Ulema* of the *Hanafi* school hold that the creditor forfeits the amount no matter how the mortgaged property came to be destroyed. This view is based on a *Hadith* that a horse, by a creditor in mortgage for a laon, happened to die. When the matter went to the Holy Prophet, he said to the man who held the mortgage, that he was no longer entitled to get payment of the loan. (*Hidayatul Mujtahid*, page 230, Vol. II)

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It is also argued by this school that a mortgaged property, in a way, is a guarantee of due payment of the loan, since it has gone out of the possession of the owner: if the debtor fails to pay the debt, the creditor can make up for his loss, through the court, by becoming the owner of the property pledged with him to cover his risk, to the extent of the loan. This aspect of the mortgage demands that in case the property is destroyed while in possession of the creditor, he will no more be entitled to get payment of the loan he had extended. As far as I can see, the view of the *Hanafi* school in question has considerable weight. If it is just and proper that the mortgager is responsible for payment of the loan, the creditor is tied down to make a safe return of the mortgaged property, to its original and real owner. In a transaction of this nature, on the one hand

the debtor is bound down to return the loan; on the other, the creditor is bound down to make a safe return of the property mortgaged to cover the risk of the loan. As stated earlier, the mortgagee is freely entitled to derive the fullest possible benefit from property pledged with him, taking care, however, that while he is doing so, the property is not damaged; and it is an established principle in the Islamic teaching that in business transaction, no one can claim a profit without sharing the risk of a possible loss. It is said in the *Hadith* that the basis of the claim to a share lies on acceptance of the possible risk of loss. (*Hidayatul Mujtahid*, page 267, Vol. II) Where a party does not accept the risk, it has no right to claim a share in the gain. For the party that extends a loan, it is only right and proper to create a safeguard against possible danger to his capital, protecting it by means of taking some suitable property in mortgage.

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Let us now take another kind of loan. Suppose there is a man with drive, business ability, experience, and integrity, but no money, no capital to start a venture. There is another man with plenty of money, but no aptitude for conducting a commercial venture. Thus both are seriously handicapped, each in his own place. The body politic, of which these two men are membrs, also remains a serious loser, since two of its potential earning members remain debarred from contributing to the well-being of society, its progress and prosperity. The way to remove these handicaps is that the man with money, and the man with business talent and experience, should combine in a business venture, one with his money, the other with his talent, the two sharing the profit on some agreed basis. In the Islamic *Fikha*, a combination, a partnership of this kind, is called a *muzarbat*, another term used for it sometimes being *karraz*. Business ventures conducted on this basis were quite common in pre-Islamic Arabia, and Islam kept up this institution as part of its economic set-up, giving full encourgement to this important productive device. But it took care that neither capital should come to dominate labour, nor labour be able

to dominate the portion of society in possession of capital nor be left free to destroy capital by negligence or carelessness in management.

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The first precaution Islam recommends in such cases is that the basic conditions of this partnership should be precisely and clearly defined, where practicable, in black and white. The share of each should be fixed in proportion ; accounts should be properly maintained, auditted after proper intervals. Neither of the two contracting parties is permitted to stipulate a deferred share of the profits, or a certain amount to be paid to him irrespective of whether the venture had earned a profit, or had only incurred a loss, after the contracting parties have fixed the proportion and ratio of the dividend due to each at the end of a stipulated period. But neither would be entitled to a fixed share, a thousand, a hundred, or fifty rupees, for instance, after a year, after six months, or every month.

Experience has shown that Capital invariably endeavours to draw all the possible profit to itself, and to minimise the risk generally inherent in business enterprise, economic Interst being the easiest, and the most handy device for this purpose. Islam rules out economic Interest, root and branch. It is fully conceded by Islam that Capital plays a decisive role in the production of wealth, but not to the extent of shielding Capital, and pampering it. It is clearly laid down that one party should provide the capital, the other his labour, his talent, supervision and initiative. This is *muzarbat*. Profit or loss would be shared by the two, according to the proportion, or ratio, agreed upon previously, when joint venture was brought into being. Business expenses would be on the joint venture : neither on the capitalist alone nor on the man who put his labour into the partnership. The dividend would be calculated after the business expenses had been fully met.

If the venture fails and it can be established that the failure has been due to carelessness on the part of the management, the loss would fall on the management, which shall be

held responsible for returning the capital invested and lost, to the party which had contributed the money when partnership came into being, and the amount was contributed.

In cases of *muzarbat* to fix a time limit for the partnership, has not been held permissible. It is permissible, however, that further purchase of commodities handled would not be made after a stipulated period. Time limit for the management to get rid of stocks is not allowed.

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The *Fokaha* have held that *muzarbat* is permitted only in commercial enterprises handling commodities, not in ventures seeking as a matter of principle, to establish old or new industries. The background of this opinion is that in these cases it is difficult to fix profits, which opens the door for quarrels and litigation. Under modern conditions, when records are kept quite on scientific lines, this objection does not hold good; as far as we have been able to see, *muzarbat* would be permissible even in business ventures where the aim is establishment of old or new industries.

A necessary condition in cases of *muzarbat* is that the stipulated money must be produced by the capitalist immediately after the agreement has been completed. Another necessary condition, is that the amount of money to be put into the venture should be precisely and definitely fixed.

Where a party contributing money in a case of *muzarbat* safeguards its position by taking some property of the other party in mortgage, this would be permissible. If the venture fails, due to the negligence of the management, or the lack of strict integrity on its part, the capitalist would be free to recover his money by selling the property mortgaged with him, as a condition in the agreement when the partnership came into being.

Any deal in contravention of any of these conditions would not be *muzarbat*, whatever else it might, or might claim to be. Where a transaction happens to be a clear case as

muzarbat, but embodies a stipulation repugnant to *muzarbat*, the partnership will stand, but the repugnant condition imposed on it shall fall, and become invalid, inoperative, As stated earlier, no one in principle, can be held entitled to profit in a a venture, unless he is also prepared to bear the risk of a loss. If a party claims to have stipulated that he will not in any case be called upon to bear a possible loss ; or that he would in any case be paid at least stipulated amount as profit on money contributed by him, both conditions will come to be not permissible, and therefore inoperative.

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A question arises here. Suppose a man produces an amount of money to be invested after stipulation of the repugnant kinds ; or he says the money he advanced was a loan, with an attached condition that at least so much profit shall be considered to have accrued to him ; and insists that his deal was a pure loan ; and he also shows some property which he claims was mortgaged with him, to cover the loan, what would be the position of the transaction in the eyes of the Islamic law ?

This question has been answered in two ways. One opinion holds that the repugnant condition shall fall, and become inoperative, leaving the deal to be treated as a case of *muzarbat*, since the basic form of *muzarbat* is that one party should contribute the money, the other his labour and talent, even though the word *muzarbat* may not have come to be mentioned in the course of the negotiations when the deal was being discussed. When a man says he contributes the money on the understanding that he would not be called upon to shoulder any possible loss, his point of view will entail a condition repugnant and inoperative in any case, his claim will naturally fall, leaving the deal operative as case of *muzarbat*.

For instance, in authoritative works of *Fikha* we read (*Kitabul Fikha alal Mazahibil Arba'a* pages 53-54, Vol. 3)

If the party contributing the money stipulates that the

other party contributing labour would be responsibie for the amount contributed by the first party, this condition will have to be repudiated. But after that has been done, the deal will stand as a case of *muzarbat*, since in principle the money is a trust in the hands of the party that contributes its labour to the partnership, and a trustee is responsible for the amount if it can be established that he lost it through his negligence. Otherwise he is not expected in the Shariah to make up the loss of the capitalist. This is the opinion of Imam Abu Hanifa, and of Imam Ahmad bin Hambal. (*Hidayatul Mujtahid* page 196, Vol. II.)

Further, it is to be remembered that the opinion held by these two eminent jurists is based on a Hadith in which, in view of a transaction being made came to the Holy Prophet's knowledge and he gave his opinion on it. The *Hadith* in question is to the sollowing effect :

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It has been related by Aeysha that a bond-woman named Buraira said that she concluded a *makatabat* agreement for payment of nine *aukia*, the condition being that one *aukia* would be paid by her every year. One day Buraira came to Hazrat Aeysha, when so far she had not made payment out of the freedom price agreed upon. She requested help in the payment of this pricc. Hazrat Ayesha replied she was prepared to purchase her from her master, and set her free, and sent her to talk to her master in this connection. Buraira went away, and came back to report that her master said Hazrat Ayesha may purchase her, and set her free, provided the *wala* she left came to him, *wala* being the inheritance left by a freed slave, who had no lineal heirs. The general rule covering such cases of inheritance is that effects left by a freed slave, who had no descendants, went to the party that had set the slave free.

Buraira conveyed this to Hazrat Ayesha, and she related the matter to the Holy Prophet, who remarked: Even if you get this condition accepted by them, it will remain in-operative. It would be invalid, useless in the eyes of the law. You are free, therefore, to purchase her, and set her free, since the *wala* in any case comes to the person who sets the slave in question free. The Holy Prophet added: What kind of people are these who try to ignore the *Shariah's* stipulations. Listen carefully. Every stipulation that contravenes any of the *Shariah* remains in-operative, and cancelled. The law of God is supreme. No stipulation can stand, except where it is held permissible by Allah, and nothing else is to be held reliable.

Wala, by right, belongs to the party that sets the slave in question free. (*Sharha Maaniul Athar*, p. 12, Vol. II)

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In this reference we have followed the wording as it stands in *Sharha Ma'ani-ul Athar Tehavi*. With a slight variation, this *Hadith* is also to be found in *Bokhari* and other authentic works of *Hadith*. (*Nailul Autar*, Vol. V, page 180)

This *Hadith* makes it quite clear that any condition which violates the principle on which the *Shariah* bases its stand, remains false and in-operative ; the agreement, shorn of repugnant stipulation, will stand valid. Thus, any clause throwing the responsibility on the party contributing personal talent and labour, will be repudiated, leaving the *muzarbat* valid and operative. The profit earned would be shared by the two parties in the ratio agreed upon. If the capital comes to be destroyed, through no fault of the managment, the loss would lie fairly and squarely, on the two parties in the agreement.

The other school holds that by the inclusion of an invalid clause, the *muzarbat* deed itself would be falsified, and the agree-

ment would stand automatically dissolved. If, however, the party contributing talent and labour even then starts a venture, instead of handing over the money to the other party, his position would be that of a labourer. If the business yields profit, it would go to the party that supplied the money. The labourer, call it management, would get only the wage of the job, according to the current market rates of the time and trade. The loss also would fall on the capitalist. No burden would lie on the management, which,of course, will get no wage. We read :

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> When an agreement of *muzarbat* falls invalid, but business has been started, and continues, labour put in by the management would be hired labour, entitled to a proper wage on the prevalent rates, but not entitled to any share in the profit earned ; nor would it be held to make for any loss incurred. Labour would be held responsible only when it is established that the loss was brought about through palpable negligance, or lack of integrity. Similarly this also is not permissible that any of the two contracting parties should stipulate that in any case it would get a specified amount, irrespective of whether the venture made a profit, or only incurred a loss. The inclusion of any such clause would render the *muzarbat* invaild and in-operative. In case, however, the business is continued on those conditions, its positions would be the same as stated earlier, in the case of a *muzarbat* rendered invaild and false.

This differentiation is due to the fact that the basis, on which the profit was to be shared by the two parties, has come to be thrown into confusion and doubt. For the governing clause in the agreement had been found false and in-operative ; and no other clause had been put in according to which profit could be divided between the two parties. Thus the *muzrabat* shall be deemed to have fallen. Accordingly, we find the

Fokaha have laid down that where a party lays down that in any case it would get a given amount, or it says to the party contributing labour, that it would be given a specified amount, the clause would be held repugnant, and the *muzarbat* itself shall come to fall as invalid. (*Kitabul Fikha alal Mazahibul Arba'a*, page 46, Vol. III)

In short, in a loan raised for commercial purpose, there accrues no profit, but the party contributing the money insists on a dividend for itself—this would be a clear case of *riba*, a clear case of economic Interest, absolutely forbidden by the Islamic *Shariah*.

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To sum up (1) if the loaner extended the loan without any thought of profit, and the loanee raised the money to meet the valid needs of life, it is a debt which must be paid back in any case. But if he remains economically crippled so that there is no prospect that he would be in a position to pay up after a reasonable length of time, society and the government, between them, shall have to pay the money to the creditor, so that he should not have to be the loser in a measure he had taken in a spirit of service to society and the government.

2) If the loan was raised to enjoy the good things of life, with a feeling of luxury, or to expand a commercial enterprise, and the loaner advanced the money without any condition of profit for himself, this amount also would be considered a debt, payable the way stated above. If, however, the loanee becomes a pauper, through no fault of his own, well off members of his social unit would have to shoulder the burden, according to their capacity to carry it. After this, if any part of the loan is left unpaid, this loss has to be borne by the creditor.

3) For the sum advanced, if some property has been taken over by the creditor, in mortagage, from which the

creditor has derived a profit, transaction would be a debt, repayable as such. For reasons beyond his control, if the mortgaged property comes to be destroyed, the debt would fall from the shoulders of the mortgager.

(4) At the time when money was made avilable, if the creditor stipulated a profit for himself, irrespective of whether the money was given as a loan, or it was intended to be invested in business ; some property was taken in mortagage, or, none was taken ; responsibility of loss was thrown on the debtor, or not so thrown ; profit for the creditor had been specified, or not specified—if the amount involved goes down the drain, in circumstances beyond the debtor's control, the loss would fall on the creditor, since in the eyes of the Islamic *Shariah* the transaction was a case of *muzarbat*. If the clauses of the agreement are vaild for *muzarbat*, it would be deemed a true *muzarbat*. If the conditions imposed were of a nature not acceptable in case of *muzarbat*, it would be reckoned as a case of false *muzarbat*. In either case, the amount involved would not fall on the shoulders of the managagment, i.e. , the party that contributed its talent and labour. The burden would be thrown on this party only if it is established that the loss has been to some palpable negligence on his part.

The Surah Maryam

(English Version of the Original Urdu by
Hazrat Khalifatul Masih, II)

1. (I) Recite in the name of Allah, Who is exceedingly Gracious (and) again and again turns with compassion.

2. O All-Knowing, Righteous Lord Thou art the Sufficient the Truthful Guide !

3. (In this Surah) There (is) the mention of the Mercy of thy Lord which He showed (then) to His servant, Zachariah

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4. When he called his Lord

5. (and) Said, 'O my Lord ! (My condition is truly such that) even all my bones have become feeble and (my) head has combust:d on account of senility and O my Lord I have never been disappointed (and bereft of blessings) through praying to Thee.

6. And certainly am apprehensive in respect of (the attitude of) my relation after me (being dead) and my wife is sterile ; grant me therefore from Thineself a helper (a son).

7. Who should be my heir to (what we inherited of faith and piety from) the House of Jacob and O my Lord make him (a person) pleasing (to Thee).

8. Thereupon Allah the Almighty said) "O Zachariah, We give you the news of a son (who will reach the age of puberty and) his name (from God) will be Yahya ; We have never addressed anyone by this name before.

9. He (Zachariah) said 'O my Lord how can there be a son to me when my wife is sterile and I have

reached the extreme of old age.

10. He (the communicating angel) said '(It is) indeed so (as thou sayest). (But) says the Lord 'This is easy for Me and (see that) I created thee before while thou wert non-entity.'

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11. He (Zachariah) said, 'O Lord ! grant me an assignment'; He said, 'The assignment for thee is that thou shall not speak to people for three consecutive whole nights (i.e. thou shall not talk).'

12. Thereafter he (Zachariah) came out of the chamber to his people and said to them, in a hushed tone, that they should glorify the Lord in the morning and in the evening.

13. (Then later Yahya was born and We said to him) 'O Yahya hold thou to the (Divine) Book fast' and We had honoured him with (Our) command while he was still young.

14. And (this was) a bounty from Us (and as graciousness) and (was) to purify (him) and he was very pious.

15. And disposed to kindly treatment of his parents and was neither a tyrant nor disobedient.

16. And there was peace on him when he was born and when he was to die and (there will be peace on him) when he is raised.

17. And narrate the story of Mary (related) in (this) Book, (particularly the incident) when she went away eastwards (to a place)

18. And in between herself and them (her relatives) put a screen (cut off and hid herself from them); We sent to her then Our Massage-bearing angel (Gabriel) and he appeared before her in the form of a healthy man.

19. She (Mary, addressing him) said 'I seek refuge

against thee with the Gracious (God) if thou hast piety in thee'.

20. (Thereupon) he (the angel) said 'I am but a Messenger of thy Lord, so that I may give thee (according to revelation) a pure son (who will attain to youthful age).'

21. She (Mary) said 'How will be a son to me while no male has touched me so far and I have never indulged in wrong-doing.'

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22. He (the angel) said, 'So it is, (as thou sayest but) said thy Lord 'This is easy for Me and (We will grant this son) So that We may make him a sign for the people and (a cause of) mercy from Us and this (matter) has been decreed upon in Our ordination.'

23. Then she (Mary) carried (in her womb) that (child) and went away, bearing him, to a far-off place.

24. Then (as she reached there) labour pain (was on her and) drove her to the trunk of the palm tree. (when she realized that she was about to give birth to a child and fearing the taunts of the world) she said "O that I were dead before this and my memory were forgotten".

25. Then he (the angel) called her from a direction far below her 'ye (lady) grieve not. Allah has verily laid out a running spring beneath thee (go there and hence clean thyself (and the baby) and shake towards thyself the branch of (that) palm-tree (near thee) holding it ; it will drop on thee healthy fresh fruit.

27. Eat it then and drink (water from the spring) and (bathing thyself and the child) cool thy eyes. Then if (in the meantime) Thou seest a man, say, forthwith 'I have vowed a day's fast for the Gracious (God) I will not therefore speak to man this day' '.

28. Thereafter she came with him, supporting his claim to her people who said, 'O Mary thou hast committed a grievous wrong.

29. 'O sister of Aaron ! thy father was not a bad man and nor was thy mother a lewd woman.'

30. Thereupon she pointed to him (the son). Then they replied 'how can we talk to one who was a child in cradle (but yesterday).'

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31. (Hearing this) He (the son of Mary) said, 'I, sure, am the servant of Allah, and He has granted me the Book and made me a prophet.

32. 'And has made me blessed (person) wherever I be and hath enjoined me Prayer and *Zakat* as long as I live.

33. 'And made me disposed to kindly treatment of my mother and has not made me unscrupulous tyrant.

34. 'And peace had descended on me the day I was born and (it shall descend on me) the day I die and the day I am raised.'

35. (Look) This is (the true) Jesus, son of Mary ; and this is (the real) truth (of it) wherein these (people) have differed.

36. It is derogatory to the honour of Allah (the Excellent) that He should choose a son ; He is Holy, above it, whenever He decrees a matter He simply says '(so) it should continue to happen'. Then it begins to happen, in that manner. (Where is then for Him the need of a help that He should have a son.)

37. And verily Allah is my Lord and also is He your Lord, then worship ye Him alone. This anon is the straight highway.

38. But different groups differed among themselves (and abandoned the truth). Punishment shall therefore overtake the people who disregarded the summons to the Great Day.

39. the day they will be in Our presence their hearing will be very sharp and their sight very keen, but these wrongdoers are in great error this day.

40. And warn them of the day when gloom (and grief) will be overshadowing (the Day of Reckoning) when all matters will be decided and (at present) these people are, in (given to) utter neglect and believe not.

41. We shall verily inherit (the entire) earth and all the people who are living on it and (ultimately) all people shall be turned back towards Us.

42. And relate the story of Abraham in the light of the Quran : Verily he was eminently righteous and a Prophet.

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43. (And bear in mind the time and tell the people about it) when he said to his father 'Father, why dost thou worship those (objects) who neither can hear and nor see and nor can they avert aught of thy troubles.

44. 'Father, I have been granted an especial knowledge which thou hast not been given. Therefore, (even though I be thy son) follow me; I will show you the straight path.

45. 'Father, serve not the Satan; verily Satan has been disobedient to the Gracious (Lord)

46. 'Father, I fear lest thou should be visited (on account of disobedience) with punishment from the Gracious (God) then consequently thou should become a helper of the Satan.'

47. Thereupon he (Abraham's father) replied 'O Abraham!

art thou beginning to despise my gods. If thou did not desist, I must certainly stone you to death. And (it is better that) thou shouldst get out of my sight for a while (lest I should lose my temper)'.

48. He (Abraham) said (then) 'well then, my prayers wishing you peace may ever continue to benefit thee (I shall leave and go away from thee). I shall certainly beg of my Lord forgiveness for thee; He is truly very indulgent to me.

49. And (O father!) I will leave thee and those (objects) you call upon besides Allah and shall address my petitions only to my Lord (and) surely I will not be lacking in good fortune by praying to my Lord-God.'

50. And when he (Abraham) left off those (his) people and (also) what they used to worship besides Allah, then We granted him Isaac and after him Jacob; and We, made them all prophets.

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51. And We granted them a (large) portion of Our mercy and appointed for them a lasting exalted rememberance.

52. And relate the story of Moses in the light of the Quran. He was Our chosen servant and Messenger (and) Prophet.

53. And We summoned him (Moses) from the right-hand side of the Mount Tur and disclosing to him Our confidence drew him near to Ourself.

54. And We granted him (Moses) by Our Mercy his brother Harun (as helper) making him a prophet.

55. And relate, in the light of the Quran, the story of Ishmæl; he was also, surely, a man true to his word and a Messenger (and) Prophet.

56. And used to exhort his folks to Prayer and *Zakat* and was a pleasing person to his Lord.

57. And relate also the story of Idris in the Light of

Quran: he verily was also a righteous prophet.

58. And We exalted him to a high rank.

59. These people were, all of them among the prophets of whom Allah had favoured from among the children of Adam and of those whom We had saved in the boat with Noah and of the seed of Abraham and Israel and from among those whom We gave guidance and whom We chose; when the word of the Gracious (God) was recited, they would fall down prostrate, weeping.

60. And then succeeded them a generation that neglected the prayer and pursued the course of lust; they will shortly, therefore, reach the stage of distraction, except one who repents and believes and practises virtue. These (people) will enter Heaven and they will not be wronged a whit.

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61. (That is in the) gardens that are abiding and which the Gracious (God) has promised His servants while they are yet invisible to them. Surely, the Promise of God is always fulfilled.

62. They will not hear therein (in those gardens) any absurdity but (only the word of) peace and there (in those gardens) they will receive provisions in the morning and the evening.

63. This is the garden to which We will make inheritors such of our servants as be righteous.

65. And (the angels will say to them) 'We come down only on the command of Your God: (and) whatever is in front of us and whatever is behind us and whatever is betwixt, all is His and Your Lord is not given to forgetting.

66. '(He is) the Lord of the heavens and Lord of the earth and of whatever is betwixt these, therefore (O Muslim) worship Him and keep steadfast in His service. Dost thou know of anyone with His attributes?'

67. And man will ever and anon say, 'shall I be raised after I am dead?'

68. Does not man bear in mind that We created him before this and (then) he was nothing.

69. By thy Lord, therefore, We (Who be thy Lord) shall raise them (once again) and also (shall We raise) the Satans. Then We will assemble them around hell while they are down on their knees.

70. Then We will isolate from all the groups those who were implacable foes of the Gracious (God)

71. And We know well which of them are most deserving of admission into hell.

72. And each one of you must enter it (the hell); This is a firm promise of thy Lord which must be implemented.

73. And We will save the righteous and leave the unjust therein prostrate on their knees.

74. And when Our manifest signs are recited to them the disbelievers ask the believers: Which of us two parties is better in respect of status and in respect of associates.

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75. And We annihilated many a people before them, far better, (than these people) in respect of material means and visible splendour.

76. Say that whoso is (engrossed) in error, the Gracious (God) gives him respite for a time, till when they are confronted with the promised visitation (physical punishment) or total national annihlation: They will then know who is in a wretched position, in respect of place and weak, in respect of friends.

77. And Allah grants increase in guidance to those who pursue the right path and the abiding things (that is)

good deeds are far worthy in the sight of thy Lord in point of reward and in respect of end.

78. Didst thou note the state of the person who repudiated Our signs and claimed that he will be given plenty of wealth and many sons.

79. Has he learned of the hidden (position) or taken a pledge from the Gracious (God)?

80. Not at all, We shall keep on record what he has said and shall protract for him punishment.

81. And We will inherit what he boasts about and he shall come to Us alone.

82. And these people have taken up many gods besides Allah in the hope that they will be for them sources of honour.

83. It will never be so. Those gods will (one Day) disown their adoration and turn up in opposition to them.

84. Dost thou know that We have appointed the Satan to incite the disbelievers?

85. Take therefore no hasty steps against them. We have numbered the days of their doom.

86. The Day We will assemble the righteous leading them to the presence of the Gracious (God).

87. And drive the criminals to the hell-gate.

88. None will be entitled to intercession on that day except who has taken a word from the Gracious (God).

89. And they assert that the Gracious (God) has taken a son!

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90. (Say) You have certainly said a grave thing.

91. It is well nigh that because of it (your this assertion) the heavens may be rent and the earth may burst into fragments and the mountains may crash down on

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earth with a boon.

92. For, they have named a son for the Gracious (God)!

93. And it is not worthy of the greatness of the Gracious (God) that he should take up a son.

94. For, all that is in the heavens and in the earth is bound to appear in dutiful service in the presence of the Gracious (God)

95. He (God) has encompassed them and recorded their number.

96. And each of them will appear before Him on the Day of Judgement, alone.

97. Verily those who believe and do good deeds, the Gracious (God) will create for them cordial attachment.

98. We have, therefore, made it (the Quran) easy through the medium of thy tongue so that thou may give thereby good news to the God-fearing and warn thereby the fault-finding people.

99. And many a habitation that have been before them, did We annihilate. Dost thou know aught of any of them through any of thy senses or hear even a soft sound of them?

English : A. G. Soofi

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